REMARKS

In the Office Action mailed March 23, 2007, the Examiner reviewed claims 1-20. The examiner has rejected claims 1-20 under 35 U.S.C § 103(a); has rejected claim 19 under 35 U.S.C. § 102(e); and has rejected claims 1-18 and 20 under 35 U.S.C. § 102(e).

Applicants have amended claims 2, 4, 5, 10 and 14. Claims 1, 3, 6-9, 11-13, and 19-20 are cancelled. Claim 21 is new. Claims 2, 4, 5, 10, 14-18 and 21 remain pending.

Rejection under 35 U.S.C. § 102(e) of Claim 19

Claim 19 was rejected under 35 U.S.C. § 102. That claim has been cancelled.

Rejections under 35 U.S.C. § 103(e) of Claims 1-18 and 20

The Examiner rejected Claims 1-18 and 20 under 35 U.S.C. § 103(e) as having been made obvious to a person of ordinary skill in the art by combinations of Ryan with other references. Claims 1, 3, 6-9, 11-13, 19 and 20 have been cancelled. Claim 21 has been introduced to emphasize the differences between the claimed method and the cited art, and Claim 14 has been amended similarly to highlight the differences between the claimed system and the art. As shown below, the claims now avoid the cited references.

The claimed invention seeks to improve search engine results by basing "hit lists" on demonstrated user preferences, rather than abstract formulations. To that end, the applications teaches the deployment of a system shown best in Fig. 2, in which client navigation data (including behavioral data, such as the time spent on a given site) is collected at client computers, employing persistent, independent applications (message delivery program 120). Those systems collect user navigation data across all web activity, from as many search engines as the user chooses, as well as search activities that take place from within individual websites. That data is gathered into comprehensive message packets (see Figs. 5-7) and sent to a server, where it is processed to build a database linking web locations to keywords that users have associated with those sites.

It is important to note that the monitoring program shown and discussed here operates with the full knowledge and consent of the user, as explained at pages 8-9 of the Application. That fact is important from a standpoint of business ethics, but it is also important in the modern environment from an aspect of market perception. The existence of "hidden" features that secretly communicate what many users might consider personal information is certain to be discovered and cause adverse publicity. Moreover, spyware detection software would undoubtedly spot attempts to communicate surreptitiously and report that activity to the user, with similarly bad consequences for the software supplier.

Ryan seeks to accomplish the results achieved by the present application, but he does not know how. The result is a system that goes only halfway to the complete solution presented in the Application, and to boot, a solution that tries to operate out of the user's sight and knowledge.

The text of the Ryan specification is clear that user data is gained only from the search engine side, either from the recordation of "surfer trace" data (para. [0084]) or other search engines (para. [0064]). Nowhere is it suggested that data can, or should, be gained directly from users. And even if such a measure were recognized as useful, no means is suggested to gather the same at times when the user is not associated with the Ryan search engine.

In addition, the only means suggested for gaining user information requires surreptitious data gathering. As set out in by Ryan, data gathering from the client "is invisible to the user" [0088], using "hidden links" that operate "without the user knowing this data has been sent" [0091]. In other words, Ryan depends upon running applets on a user's computer, and gathering personal information about the user, without telling the user what is being done.

As they now appear, Ryan neither teaches nor suggests Claims 21 and 14. In both instances, the intent of the present Application to build a system operating on wide consumer behavioral history, and with full user knowledge and consent, is fully set out in claim limitations. First, it is clearly set out that the present Application gathers data by employing persistent, independent applications running on client computers and monitoring all actions, whether or not the user is connected to the sponsoring search engine. Ryan simply never gathers data from the client, apart from the client's actions

on the search engine site, leaving the vast bulk of user activity completely out of the decision calculation. Whether or not a client-centered system was adequately claimed before, that fact is now central to the pending claims, and Ryan is entirely silent on that point.

Moreover, the claims now embody the principle of client knowledge, to the exact opposite of Ryan's teaching. Both Claim 1 and Claim 14 require that the client computer user be "aware of and approve" the operations of the monitoring program. Because the nature of the Ryan system, obtaining user consent before running a search, or displaying search results, would be extremely cumbersome. Moreover, at this point, combining Ryan with some system that calls for consent would be pure hindsight reconstruction at this point. Such a combination would be made not for improved operation of a Ryan system but solely to copy the language of the present claims.

In sum, the claims now pending in the Application define a clear line of patentability over the prior art. In view of that fact, it is respectfully suggested that the outstanding rejections should be withdrawn.

CONCLUSION

Applicants respectfully submit that the pending claims are now in condition for allowance.

Fee Authorization. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 50-0869 (CLAR 1064-1).

Respectfully submitted,

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